

COPY

OFFICE OF ATTORNEY-GENERAL

April 7, 1955

NEW HAMPSHIRE LAW LIBRARY

SEP 22 1998

CONCORD, N.H.

James J. Barry, Commissioner  
N. H. Department of Public Welfare  
State House Annex  
Concord, New Hampshire

Re: Gafney Library, Wakefield

Dear Sir:

In reply to your letter of March 30, 1955, regarding possible OASI coverage for the employees of the above library, please be advised that it is my opinion that they are not eligible for participation in the system as administered by your Department.

The library was established as a testamentary trust under the will of the late Charles B. Gafney. The gift in trust was made to private trustees who continue to execute the provisions of the trust under the supervision of Judge of Probate for Strafford County. The identity of the library is a private charitable trust and it is not an instrumentality of a political subdivision. The fact that the Town of Wakefield appropriates a sum each year for the library does not change its character. The appropriation is for the use of the library pursuant to the authority of R.L., c. 51, s. 4 (XIV), which permits the expenditure of public monies to assist in the maintenance of any library that is kept open for the free use of all the inhabitants. Thus it will be seen that the fact public monies are used or expended by the library is not controlling and it is necessary to examine the basic organization of the library.

As stated above, this organization is of a private nature and the library is not an instrumentality of a political subdivision.

Very truly yours,

Richard C. Duncan  
Assistant Attorney General

RCD/aml

cc: Helene Dept.